

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Nelson Llavata,

Plaintiff

v.

Cole Morrow, et al.,

Defendants

Case No.: 2:11-cv-00250-JAD-CWH

Order re: Doc. 123

Plaintiff Nelson Llavata alleges violation of his Eighth Amendment rights, based on deliberate indifference to his medical needs. Doc. 107. On December 12, 2014, Romero Aranas, the only remaining defendant in this case, moved to dismiss all of Llavata's claims against him, arguing that Llavata's failure to update his address subjected his claims to dismissal under Federal Rule of Civil Procedure 41(b). *Id.* at 3. Aranas seeks dismissal either with or without prejudice. *Id.* at 4.

On the same day, I issued Llavata a notice pursuant to *Rand v. Rowland*¹ and *Klinge v. Eikenberry*,² that informed him that the motion to dismiss, if granted, could result in the dismissal of his claims. Doc. 124 at 2. I also cautioned Llavata that his failure to file points and authorities in response to the motion would constitute consent to granting the motion under Nevada Local Rule 7-2(d). *Id.* On December 16, 2014, the copy of Aranas's motion to dismiss mailed to Llavata was returned undeliverable. Doc. 125. Llavata never filed a response to the motion to dismiss. Under Local Rule 7-2(d), his failure to respond to Aranas's motion constitutes consent to granting the motion, and upon review of Aranas's motion I find it has merit. In the interests of justice I dismiss Llavata's claims against Aranas

¹ 154 F.3d 952 (9th Cir. 1998).

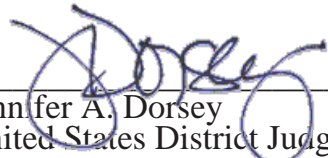
² 849 F.2d 409 (9th Cir. 1988).

1 without prejudice, and instruct the clerk of court to close this case.

2 Accordingly, it is HEREBY ORDERED that Romeo Aranas's Motion to Dismiss
3 **[Doc. 123] is GRANTED**, and all of Llavata's claims against Aranas are **DISMISSED**
4 **WITHOUT PREJUDICE**.

5 The Clerk of court is instructed to close this case and enter judgment accordingly.

6 DATED February 11, 2015.

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10 Jennifer A. Dorsey
11 United States District Judge
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